

**COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 03-MSRC-003**

**COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF MINES AND MINERALS**

COMPLAINANT

v.

CHARLES L. BRANSON

RESPONDENT

FINAL ORDER

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant and Respondent Charles L. Branson, and the members of the Commission having reviewed the Settlement Agreement filed on March 12, 2003 in the matter herein, and the Commissioners being sufficiently advised,

IT IS HEREBY ORDERED as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The Respondent, Charles L. Branson's Underground Mine Foreman's Certificate, # A-***-**, issued by the Commonwealth of Kentucky, shall be revoked for a period of thirty (30) days, effective March 12, 2003;
3. Respondent Branson shall be required to re-take and pass the mine foreman's examination given by the KDMM before his underground mine foreman's certificate will be returned to him. The revocation of said certificate shall continue indefinitely, until Respondent Branson passes the underground mine foreman's examination;

4. The Respondent, Charles L. Branson, shall turn over his underground mine foreman's certificate to a representative of the KDMM on or before March 14, 2003, at a time and place to be arranged by the parties;

5. The Settlement Agreement signed by the parties and filed with the Commission shall be incorporated by reference and attached hereto;

6. This Final Order shall be considered to constitute a "first offense" as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent Branson, resulting in an adjudication of guilt by the Commission, shall be deemed "subsequent offenses" as defined by 805 KAR 8:010, Section 1(13); and

7. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, Charles L. Branson, in this matter. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission. Pursuant to KRS 351.194(8), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of an order.

Entered this _____ day of March 2003.

BAYARD V. COLLIER, CHAIR
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing FINAL ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this _____ day of March 2003:

CHARLES L. BRANSON

VIPER KY *****

And by messenger mail to:

COMMISSIONER FRANK DELZER
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

HON. TONY OPPEGARD
GENERAL COUNSEL
DEPT. OF MINES & MINERALS
1025 CAPITAL CENTER DRIVE
FRANKFORT KY 40601

And the original shall be kept on file:

MINE SAFETY REVIEW COMMISSION
132 BRIGHTON PARK BLVD.
FRANKFORT KY 40601

DIANE SCHULER FLEMING
GENERAL COUNSEL
MINE SAFETY REVIEW COMMISSION

KENTUCKY MINE SAFETY REVIEW COMMISSION

KENTUCKY DEPT. OF MINES & MINERALS)	
)	
Complainant)	
)	
v.)	Administrative Action No. 03-MSRC-003
)	
CHARLES L. BRANSON)	
)	
Respondent)	

SETTLEMENT AGREEMENT

Come the Complainant, the Kentucky Department of Mines & Minerals (“KDMM”; “the Department”), and the Respondent, Charles L. Branson (“Branson”), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

In consideration for the dismissal of this action against him and the cancellation of the hearing scheduled for May 8, 2003, Branson hereby admits violating KRS 352.201 (1) and (3) and KRS 352.210 - as set forth in paragraphs 4, 5, 6 and 11 of the Department’s Complaint - and agrees to the **REVOCATION OF HIS UNDERGROUND MINE FOREMAN’S CERTIFICATE (#A-***-**) FOR A PERIOD OF THIRTY (30) DAYS**, effective upon the signing of this Settlement Agreement by both parties. Branson shall turn over his underground mine foreman’s certificate to a representative of the KDMM on or before March 14, 2003, at the KDMM District Office in Hazard, Kentucky.

Branson further agrees that if he wants to become a certified underground mine foreman in the Commonwealth of Kentucky after the expiration of the said revocation period, he will have to re-take and pass the mine foreman's examination prior to re-applying to the Kentucky Mining Board for an underground mine foreman's certificate. If he does not re-take and pass the Kentucky mine foreman's examination, the revocation of Branson's underground mine foreman's certificate will continue indefinitely.

Branson also agrees that this Settlement Agreement, and any final order issued herein by the Mine Safety Review Commission ("the Commission"), will be considered by the Commission to constitute a "first offense", as that term is defined at 805 KAR 8:010, Section 1 (5); and that any future adjudication against him by the Commission will be deemed a "subsequent offense" as defined at 805 KAR 8:010, Section 1 (13).

The parties state that they have carefully read and considered this Settlement Agreement prior to signing the Agreement, and that they understand and agree to its terms and provisions. KDMM and Branson acknowledge that there are no other promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.

CHARLES L. BRANSON

Viper, Kentucky *****

FRANK X. DELZER, Commissioner
Kentucky Dept. of Mines & Minerals
P.O. Box 2244
Frankfort, Kentucky 40602

DATE

DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement was mailed this
12th day of March, 2003 to Charles L. Branson, *****, Viper, Kentucky *****.

TONY OPPEGARD
General Counsel
KENTUCKY DEPT. OF MINES & MINERALS